

HENRY E. HILDEBRAND,

Trustee-Appellant,

v.

LORRIS KNOX WIMBERLY and

PAIGE PEARSON WIMBERLY,

Debtors-Appellees.

LORRIS KNOX WIMBERLY and)
PAIGE PEARSON WIMBERLY,)
Debtors-Appellees.)

be received in the applicable commitment period . . . will be applied to make payments to unsecured creditors under the plan.” 11 U.S.C. § 1325(b)(1)(B). The lower courts have struggled with the meaning of “projected disposable income.” Some courts, like the Bankruptcy Court in this case, have utilized a “mechanical approach” in determining the projected disposable income by first multiplying the monthly income by the number of months in the plan and then determining what portion of the result is disposable. See, In re Kagenveama, 541 F.3d 868, 872-74 (9th Cir. 2008). Other courts have utilized a “forward looking” approach which takes into account foreseeable changes in a debtor’s income or expenses. See, In re Fredericksen, 545 F.3d 652, 658-60 (8th Cir. 2008).

On June 7, 2010, the United States Supreme Court in Hamilton v. Lanning, 2010 WL 2243704 (2010) held that while a court in calculating “projected disposable” income can utilize the figure yielded by the “mechanical approach,” “where significant changes in a debtor’s financial circumstances are known or virtually certain, a bankruptcy court has discretion to make an appropriate adjustment.” Id. at *6. In arriving at its conclusion, the Supreme Court observed:

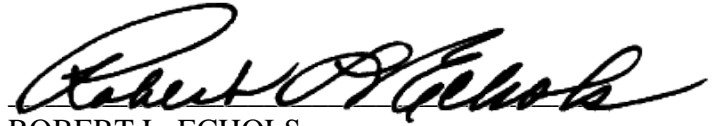
In cases in which a debtor's disposable income during the 6-month look-back period is either substantially lower or higher than the debtor's disposable income during the plan period, the mechanical approach would produce senseless results that we do not think Congress intended. In cases in which the debtor's disposable income is higher during the plan period, the mechanical approach would deny creditors payments that the debtor could easily make.

Id. at *10.

In this case, the Bankruptcy Court utilized a “mechanical approach” to determine the projected disposable income of the Debtors and apparently did not consider the possible change in the Debtors’ future circumstances. Because the Bankruptcy Court’s decision was rendered without the benefit of the Supreme Court’s decision in Hamilton, its decision confirming the Debtor’s

Chapter 13 Plan is hereby VACATED and this case is hereby REMANDED to the Bankruptcy Court for further consideration in light of the Supreme Court's decision in Hamilton.

It is SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", written over a horizontal line.

ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE